

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re)
)
Eric Sanders;)
,) Chapter 13
)
Debtor(s).) Honorable A. Benjamin Goldgar
)
) Case No. 22 B 12642
)
) December 13, 2022 at 9:30 a.m.

NOTICE OF MOTION

To: See service list

On **December 13, 2022 at 9:30 a.m.** or as soon thereafter as counsel may be heard, I shall appear before the **Honorable A. Benjamin Goldgar** or any sitting judge sitting in his stead, in the courtroom usually occupied by him at 219 S. Dearborn St., Chicago, Illinois, **room 642** or electronically as described below, and present the attached motion.

All parties in interest, including the movant, may appear for the presentment of the motion either in person or electronically using Zoom for Government.

You may appear electronically by video or by telephone.

To appear by video, (1) use this link:<https://www.zoomgov.com/>. (2) Enter the meeting ID 161 319 7225. (3) Enter the passcode 584922.

To appear by telephone, (1) call Zoom for Government at 1-669-254-5252 or 1-646- 828-7666. (2) Enter the meeting ID 161 319 7225. (3) Enter passcode 584922.

When prompted identify yourself by stating your full name.

To reach Judge Goldgar's web page go to www.ilnb.uscourts.gov and click on the tab for Judges.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

/s/ Daniel J. Lee

PROOF OF SERVICE

I, the undersigned attorney certify that on **December 2, 2022**, I caused this notice and its attachments to be served to each person to whom it is directed and in such manner, as is indicated on the attached service list.

/s/ Daniel J. Lee

Daniel J. Lee
Klein, Daday, Aretos & O'Donoghue, LLC
1051 Perimeter Drive #300
Schaumburg, IL 60173
(847) 590-8700
6286696

Service List

Eric Sanders

**6217 S. Rockwell, Unit 1,
Chicago, IL 60629**

By First Class Mail, postage prepaid

Marilyn O Marshall

Office of the Chapter 13 Trustee
224 S. Michigan Ave., Suite 800
Chicago, IL 60604
via the Court's Electronic Filing System

Patrick S. Layng

Office of the U.S. Trustee, Region 11
219 Dearborn St.
Room 873
Chicago, IL 60604

Chad Mizelle

The Semrad Law Firm, LLC
20 S. Clark Street
Suite 2800
Chicago, IL 60603
via the Court's Electronic Filing System

Thomas E. Nield

The Semrad Law Firm, LLC
20 S. Clark Street
Suite 2800
Chicago, IL 60603
via the Court's Electronic Filing System

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re)
)
Eric Sanders;)
,) Chapter 13
)
Debtor(s).) Honorable A. Benjamin Goldgar
)
) Case No. 22 B 12642
)
) December 13, 2022 at 9:30 a.m.

MOTION TO MODIFY THE AUTOMATIC STAY

NOW COMES the moving creditor Eastern Savings Bank, by and through its attorneys, Klein, Daday, Aretos & O'Donoghue, LLC, and moves this Honorable Court to enter an order modifying the Automatic Stay pursuant to 11 U.S.C. 362, et seq., as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. 1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois.
2. Venue is fixed in this Court pursuant to 28 U.S.C. 1409.
3. Debtor filed this instant case on November 1, 2022 as a Chapter 13.
4. Eastern Savings Bank, FSB holds a mortgage lien on the property commonly known as 6217 S. Rockwell, Chicago, IL 60629 (hereinafter "the Property").
5. As of October 31, 2022, the total amount of debt owed to Eastern Savings Bank is \$251,335.31. The pre-petition arrears are \$120,368.87.
6. Debtor has failed to make his scheduled post-petition payments and has incurred post-petition mortgage arrears on the Note secured by the property in the amount of \$2,117.42. Debtor failed to make timely payments for November and December, 2022.

The total amount of post-petition arrears includes the monthly payments of \$1,032.89 plus a November late charge of \$51.64.

7. Also, the debtor's loan with Eastern Savings Bank is a non-escrow account and there is more than \$11,000.00 of delinquent real estate taxes as of June 2022 per a redemption certificate. His failure to pay real estate taxes resulted in a tax sale. The debtor lacks any equity in the property and the large amount of arrears makes his plan infeasible.

8. Further, in 2016, to resolve a prior foreclosure action brought by the Movant, the two parties entered into a Settlement and Modification Agreement that the debtor signed with the assistance of counsel. (See attached Exhibit A). In paragraph 8, the debtor agreed that in the event he filed for Bankruptcy protection, that he would not oppose any action taken by Eastern Savings Bank to lift the automatic stay and he will allow the lender to proceed with any action to foreclose the mortgage, which Eastern Savings Bank was doing until the debtor filed this Chapter 13 bankruptcy. Therefore, the debtor has waived his right to object to this motion by signing this attached settlement agreement with Eastern Savings Bank.

9. Movant is not adequately protected as this matter does not have a good chance of confirmation and cure.

10. Movant continues to be injured each day it remains bound by the automatic stay and requests that Rule 4001(a)(3) be waived for cause.

WHEREFORE, Eastern Savings Bank respectfully requests that this Court grant it relief from the automatic stay provision of the Code and allow movant to proceed with foreclosure proceedings against the property commonly known as 6217 S. Rockwell,

Chicago, IL 60629 and for such other and further relief as this Court deems fair and just.

Respectfully submitted,
Eastern Savings Bank,
/s/ Daniel J. Lee
By One of Its Attorneys

Daniel J. Lee
Klein, Daday, Aretos & O'Donoghue, LLC
1051 Perimeter Drive, #300
Schaumburg, IL 60601
(847) 590-8700
6286696